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No. 94-482

In The

Supreme Court of the United States

October Term, 1994

ENTERPRISE CONSOLIDATED SCHOOL DISTRICT,
by and through Its Board of Trustees,

Petitioner,

v.

THE LAUDERDALE COUNTY,
MISSISSIPPI SCHOOL DISTRICT,
by and through Its Board of Education, et al.,
and the
QUITMAN, MISSISSIPPI SCHOOL DISTRICT,
by and through Its Board of Trustees, et al.,

Respondents,

Consolidated with

ENTERPRISE CONSOLIDATED SCHOOL DISTRICT,

Petitioner,

v.

QUITMAN CONSOLIDATED SCHOOL DISTRICT,

Respondent.

On Petition For A Writ Of Certiorari To The United States Court Of Appeals For The Fifth Circuit

REPLY BRIEF IN SUPPORT OF PETITION FOR WRIT OF CERTIORARI

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October 27, 1994

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Courts cannot allow the fundamental constitutional right of innocent citizens to attend desegregated schools to be waived by the failure of a school board to seek a timely remedy against intentional segregation. The effect of the Fifth Circuit's holding equitable estoppel to be a bar to Enterprise School District's effort to void a racially charged school annexation contract is to cause the Enterprise School to go from approximately 70% to 91.4% white, by the assignment of the Stonewall area black students to the majority black Quitman School. The Court of Appeals' holding that discriminatory portions of the annexation contract are racially severable is contrary to *Shelley v. Kramer,* 334 U.S. 1 (1948). The result is that the original intent of the annexation contract has been realized. School segregation has become court approved.

A racially charged contract annexing territory so long as the students remain segregated by race certainly meets *Milliken's* requirement that racial discrimination of one school district have a significant segregative effect on another school district. Contrary to the contentions of the Respondent, there is a split in the circuits on the application of *Milliken v. Bradley,* 418 U.S. 717 (1974) to similar

sets of facts. *See, e.g., Hoots v. Pennsylvania*, 672 F.2d 1107, 1121 (3d Cir. 1982).

Respectfully submitted,

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